

School Districts, Children and Gay Straight Alliances

Protecting Children

Empowering Parents

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Introduction and Background

The Threat

Over the past several decades, children have been introduced to issues involving sexuality at earlier and earlier ages. One of the most threatening to their physical and mental health is society's growing acceptance of homosexuality, and often, it is in the public education setting where the most aggressive proselytizing takes place.

The Gay, Lesbian and Straight Education Network (GLSEN) recently boasted that the number of active Gay Straight Alliances (GSA) in secondary schools is approaching 3000, claiming to be reaching children as young as 12 years of age with "assistance" in helping them discover and explore their sexuality, sexual orientation and gender identity. The creation of these clubs accompanies an explosion in the public school system of policies ostensibly designed to secure the "safety" of students in their charge. But the true intent and affect of these policies serves not to promote "safety" but to establish a singular orthodoxy which is often anti-family, anti-religious and which firmly enshrines the homosexual agenda in our nation's schools.

Several organizations consistently appear at the forefront of this issue when it arises in communities across America: GLSEN, Parents, Families and Friends of Lesbians and Gays (PFLAG), the American Civil Liberties Union (ACLU), LAMBDA Legal. Participants in GSAs are regularly assisted by organizations like GLSEN with organizing resources and referrals to centers for teen outreach. These centers operate as a means to introduce and encourage experimentation by school age children with a lifestyle that can be devastating to a young person. Information describing the painful medical and psychological realities of the gay and lesbian lifestyle, as well as possible legal liability for school districts permitting the formation of GSAs, may be found in the report *The Legal Liability Associated with Homosexuality Education in Public Schools* which can be downloaded from the website of Citizens for Community Values at: http://www.ccv.org/Legal_Liability_of_Homosexuality_Education.htm

The Proposed Gay Straight Alliance

A Gay Straight Alliance (GSA) is not merely another club. A newly established GSA often becomes a springboard for pro-homosexual advocacy seeking to alter curriculum and silence dissent through restrictive student speech and conduct codes. An overview of the purpose of a GSA as described by the Gay Straight Alliance Network describes them as an activist club seeking to, "get Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) issues in the curriculum, LGBTQ related books in the library, and progressive non-discrimination policies implemented at a district level." GSAs may "organize a Pride Week or LGBTQ Awareness Event" or "participate in the Day of Silence" remaining silent as a means of protesting "homophobia." According to the Gay Straight Alliance Network, "GSAs organize a 'Teach the Teachers' staff development day which focuses on teaching school staff how to be better allies for LGBTQ students."

Through GSAs, students are encouraged to freely access a multitude of resources online through websites such as GLSEN.org which are designed to aid them in their efforts to establish an on-campus organization and begin to transform their school's curriculum and environment. Students may download a letter authored by an ACLU whose intent is to allow students to bully school official. They may also download manuals on how to start a GSA, sample mission statements and club constitutions all as part of a series of "Jumpstart" manuals covering such topics as "Teaching the Teacher", "Framing a Message" and "Understanding Power, Privilege and Oppression".

Regardless, whether a student is involved with a GSA, he or she *will* be affected when the school's curriculum reflects the suggestions of an organization such as GLSEN or the ACLU or when the code of conduct or speech is re-written to suppress opinions which are not affirming of the gay life-

style. Parents whose children attend a private school or whose children are now adults or individuals without children all have a stake in this battle. After all, our public schools shape the minds and morality of tomorrow's citizens, politicians, and teachers using the dollars they collect from each and every taxpayer today.

Background: Why are schools permitting GSAs to form in secondary schools?

The Equal Access Act and bible clubs

In 1984, Congress acted to end a divisive debate occurring in several federal circuit courts regarding the permissibility of high school students organizing and participating in non-curricular bible clubs. In passing the Equal Access Act (20 USC § 4071, *et seq*), Congress sought to end inconsistent treatment by the courts. The Equal Access Act (EAA) requires that bible clubs receive the same treatment as other non-curricular, secular clubs if a school receiving federal funding permits one non-curricular club to use its facilities.

But proponents of GSAs, attempting to extend the reach of the EAA, continue to argue that Congress intended to permit students to organize any and all non-curricular groups regardless of the intentions of the students or the subject matter that the club members would involve themselves. This logic can only lead one to think that by enacting the EAA, Congress sought to divest a school board, principals and administrators from all control over their students within the non-curricular environment, which clearly is not the case. The fact is, a simple reading of the EAA itself shows that it is clearly designed to permit a school district to act in such a way to secure the welfare of its students.

A student's absolute right?

GSA proponents generally point to the first section of the Equal Access Act as support for the proposition that minor children may organize a club discussing whatever topic or advocating whatever activity they wish on school property without restraint. Section 4071(a) states:

It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

By arguing for the absolute right of a student to organize any club, GSA advocates willfully ignore two "safe harbor" provisions within the EAA which grant school districts the right to exercise discretion regarding the formation of non-curricular clubs.

First, Section **4071(c) (4)** of the Equal Access Act requires that a meeting not "***materially and substantially interfere with the orderly conduct of educational activities within the school.***" Those who argue that a school district has no interest in the manner in which an non-curricular activity impacts a school's ability to carry out its educational mission ignore the plain meaning of the statute.

Secondly, and more significantly, § **4071(f)** of the act emphatically declares that the authority of the school shall not be compromised as it seeks to, "***maintain order and discipline***" or to, "***protect the well being of students.***"⁴ Reliance by a school board upon an advocacy group's assertions that any and all clubs be allowed to meet is an absolute refusal of the express intent of Congress as contained in the Act.

Could the school district be liable?

The statute unambiguously states that it does not prohibit any action taken by a school district to secure, among other things, the well-being of students, nor does the Act serve to insulate a school district from any action it may take in reliance upon an erroneous interpretation of the statute. School officials should be aware of the significant mental and physical health risks associated with same sex sexual behavior in order to protect those minors under their care and prevent exposing the tax payers of the district to significant financial liability should those under their care be harmed.

Opposing the formation of a Gay Straight Alliance in your Secondary School

Framing the Argument

The Equal Access Act

Upon first learning of the possible formation of a Gay Straight Alliance (GSA) in your local high school, a concerned parent or taxpayer should become familiar with the Equal Access Act of 1984. Consisting of only four sections, the law is readable and easy to understand. It is the incomplete presentation of all of the provisions of the Act that permits advocates of GSAs to sway school boards into the belief that they have no other option than to permit the formation of these clubs. A complete copy is available in the appendix of this handbook.

Prepare your Argument/Know your Audience

There are very strong, biblically sound, moral arguments to be made regarding the homosexual lifestyle. Regardless- even if the superintendent, board members or school officials agree with your religious principals without reservation- such arguments will not be *legally* sufficient. The fact that homosexual behavior is associated with disease, mental illness, depression, shortened lifespan, and that a GSA represents an introduction to these sexual practices is what is generally relevant to government officials.

As important as it is to know the provisions of the Equal Access Act, knowing the health statistics is just as important. Presenting the **Legal Liability** report to your school administrators and being able to cite to specific examples of potential, life-threatening harm due to same sex behavior presents you with a significant advantage when arguing against the formation of a GSA or the adoption of a curriculum that affirms the homosexual lifestyle.

It should be noted that “homosexuality” is not a viewpoint per se, any more than anorexia or drug abuse are viewpoints. It’s a life-threatening behavior which schools have no business implicitly or explicitly endorsing. A GSA holds dangers for EVERY student just by its existence, and the seeming acceptance by the school that there is validity in this behavior. So opting out is the last option. Excluding the GSA is the optimal choice.

A Note Concerning Faith

The tenets of your faith may not sustain a legal argument but you do have constitutional rights as a parent and student. A school district may not establish a religious orthodoxy for all nor suppress a religious viewpoint of any. School board policies like speech or conduct codes which act to prevent students from expressing themselves regarding their religious beliefs or convictions could be unconstitutional. Training programs that offer a one sided view regarding the acceptability of homosexuality or

infringing on parental rights to instill moral values in their children may also be held unconstitutional. There are an increasing number of public interest law firms that have undertaken as their ministry the protection and advancement of the rights of Christians to hold, express and pass along to their children their religious viewpoints. Should you feel that your rights or the rights of your child have been compromised by the actions of a school board, contact an attorney or one of those organizations.

Approaching School Officials

Form a coalition of like-minded concerned parents and become well acquainted with the material contained in the ***Legal Liability*** report and the provisions of the Equal Access Act. They must be prepared to calmly and dispassionately discuss their concerns with the school principal or superintendent. There is strength in numbers and added insight when separate individuals view the same event or information from different perspectives.

Get to know your school board members. Generally, school board officials serve part-time and maintain another full-time occupation. When meeting with school board members, remember that they are creatures of politics who are adverse to confrontation and wish to be re-elected. You need to be the counterbalance to threats and intimidation of the ACLU, LAMBDA Legal or similar organization by making competent arguments supporting the school district's right and obligation to provide for the well-being of its students. Politely make it known that how the school board member addresses your concerns will determine your support and the support of the members of your group or church when it is time for re-election. Also, stress to the school board members that their vote to permit the formation of a GSA may place the district and its representatives in future legal jeopardy when one of the district's students is injured as a result of being encouraged to engage in same-sex behavior.

1. When your group is preparing to meet with school officials, experience has proven that it is best to coordinate and assign individuals to pursue a specific point or issue and obtain an answer. It is easy to become sidetracked, either deliberately or through inadvertence, during a meeting of limited time and fail to have a specific concern addressed. Discussing, identifying, and targeting the concerns of parents in your coalition beforehand will clarify your position and magnify the potential of getting an answer to your specific questions.
2. No matter how accommodating or cooperative the school official might be, there will be questions that will require information not readily at hand. Before leaving, have the school official commit to a stated time to contact you or, preferably, schedule a follow up meeting to discuss what he or she has discovered.
3. Write a follow-up letter after meeting. Restate what was discussed and what each party promised to provide to your group or investigate on your behalf. This letter serves both to memorialize the statements made by the parties and as a reminder of what your school administration promised to accomplish at your request.

Protecting your children: Five Smooth Stones

1. Parental Notification Policies

Often, participation of children in a GSA is permitted by a parent under a false assumption of the purpose of the club born by the lack of information regarding the club's goals and objectives. Preventing school officials and parents from obtaining the truth about the ultimate goals of a GSA is critical to the success of such clubs.

Recently in Ashland, Kentucky, the Boyd County Public Schools District capitulated to the demands of the ACLU regarding the formation of a GSA by entering into a consent decree. Prominent among the terms of the agreement between the District and the ACLU is a provision ***prohibiting the school district from requiring parental notification or permission for a minor child's participation in a GSA!***

Such a prohibition is contrary to a growing desire whereby state legislators, school districts and others have sought to enhance the cooperative relationship between parents and educators by requiring parental notification of the goals, objectives and activities of all non-curricular groups with which their children choose to involve themselves.

Parents whose school has an existing GSA or who is contemplating the threat of the creation of such a club should immediately lobby for the adoption of a parental notification policy. If local school officials are unwilling to consider the policy, a state legislator or state school board member should be approached to provide protection at the state level. Such a policy should inform a parent of the club's mission, purpose, topics to be discussed and whether and in what manner individuals outside of the school community will come in contact with club members.

Below are examples of parental notification policies requiring informed parental consent before their children may involve themselves in the activities of an extracurricular club.

**Utah Code Section 53A-3-420
Activity disclosure statements**

- (1) A local school board shall require the development of activity disclosure statements for each school-sponsored group, club, or program which involves students and faculty in grades 9 through 12 in contests, performances, events, or other activities that require them to miss normal class time or takes place outside regular school time.
- (2) The activity disclosure statements shall be disseminated to the students desiring involvement in the specific activity or to the students' parents or legal guardians or to both students and their parents.
- (3) An activity disclosure statement shall contain the following information:
 - (a) the specific name of the club, team, group, or activity;
 - (b) the maximum number of students involved;
 - (c) whether or not tryouts are used to select students, specifying date and time requirements for tryouts, if applicable;
 - (d) beginning and ending dates of the activity;
 - (e) a tentative schedule of the events, performances, games, or other activities with dates, times, and places specified if available;
 - (f) if applicable, designation of any non-season events or activities, including an indication of the status, required, expected, suggested, or optional, with the dates, times, and places specified;
 - (g) personal costs associated with the activity;
 - (h) the name of the school employee responsible for the activity; and
 - (i) any additional information considered important for the students and parents to know.

**Georgia Senate Bill 149 session 2005-2006
School/Extracurricular Activities**

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to provide for adoption of policies and procedures by local boards of education to provide information regarding school sponsored clubs and extracurricular activities to parents and legal guardians and to provide an opportunity to withhold permission to participate; to provide that local school

systems shall comply with written notification from parents and legal guardians withholding permission for participation; to require written parental or legal guardian permission for membership in a specific club or activity; to require annual permission for club membership and participation in activities; to provide for related matters; to repeal conflicting laws; and for other purposes.

(similar language mirrored in GA House Bill 661 School Clubs)

MODESTO CITY SCHOOLS
Administrative Regulation
AR 6145.5

INSTRUCTION

Associated Student Body Organizations and Equal Access, 7-12

Associated Student Body Organizations (Parent/Guardian Permission Required)

Associated Student Body organizations must be organized at the school, have a certificated advisor, be composed completely of current student body members and be approved by the Superintendent/designee in accordance with Governing Board policy. They shall hold the majority of their meetings at school and have a democratic plan for the selection of officers. Organization activities shall not conflict with the authority and responsibilities of school officials.

The principal/designee shall direct any group of students seeking recognition as an Associated Student Body organization to submit a district-approved application form which includes the following information:

1. Name of the organization.
2. A statement of the organization's purposes, objectives, and activities. (Any affiliation of a student organization with any outside organization must be clearly described in writing, and a charter of the outside organization must be attached to the application.)
3. The title, powers, and duties of the officers and the manner of their election.
4. Name of certificated staff advisor and a description of the function of staff advisor in the promotion, supervision and leadership of the group. The principal shall have final authority in determining the assignment and role of the staff advisor.
5. A description of any qualifications for membership.

AR 6145.5 (a)

INSTRUCTION

Associated Student Body Organizations and Equal Access, 7-12

6. If a curriculum-related group, a statement of the relation of the club to the curriculum and/or instructional program.

In order to participate in Associated Student Body organizations, students shall:

- a. Parent/guardian written permission; and
- b. Meet all eligibility requirements defined in Board Policy 5132, Student Conduct Code, 7-12.

2. Non-Referral Policies

Amazingly, many school districts do not have policies prohibiting employees, teachers, or volunteers from directing students to outside groups or agencies without their parent's permission or knowledge. Children have and are routinely referred to groups like Planned Parenthood to receive information and instruction of the most intimate nature and, in some cases, to undergo surgical procedures such as abortion without parental knowledge or consent. Children, whether through involvement with a GSA or

by approaching a 'trusted' teacher, counselor or club advisor/moderator, can be referred to an outside group like GLSEN or a 'youth center' for gay, lesbian or questioning youth. There they are 'guided' and encouraged in their explorations of their sexuality. According to stories from young people who have frequented these centers, it is often a place of adult exploitation and introduction to many new ideas. One GSA which was denied official recognition by the Lubbock Texas Independent School District maintained as a stated goal of the club:

We are not in any way, "recruiting." Anyone who attends our functions does so of their own free will. We will use diplomatic tactics to provide guidance to youth. ***We will not be the ones making the decision about their sexuality and we will be working with other organizations, councilors [sic], etc. to provide the best help possible.*** (emphasis added).

School districts operating without a policy governing referrals of students to outside agencies are ignoring the responsibilities imposed upon them when the district assumes the position of *in locus parentis* with respect to its students. The failure by a district to adopt and promote such a policy endangers not only their students but exposes the district to a significant potential for liability. Parents should demand answers from their school board, school attorney and superintendent to the following questions to determine what policies are in place to protect their children and to make the district aware of this potential for liability.

District Awareness of Issues Related to Negligent Referral and/or Negligent Entrustment

- 1) Are any administrative personnel, board members, employees, agents, volunteers or servants of our School District allowed to refer students to outside agencies or organizations concerning issues related to sexual identity disorders, practices or matters generally pertaining to sexual education or health?
- 2) What, if any, written directives, policies and/or guidelines are issued by our School District to administrative personnel, board members, employees, agents, volunteers or servants regarding the district's referral/non-referral policy?
- 3) If there exists written directives, policies and/or guidelines regarding referrals please provide a copy of the policy(ies).
- 4) Are administrative personnel, board members, employees, agents, volunteers or servants of our School District, who have contact with or access to students, required to "sign-off" that they have been made aware of the district's policy prohibiting referrals? Are they reminded about the district's policy prohibiting referrals during staff meetings or "in-service" training?
- 5) If it is school policy to permit referrals to outside agencies or organizations with respect to issues involving sexual identity disorders, practices or matters generally pertaining to sexual education or health, please provide a copy of the policy and list of the approved referral agencies.
- 6) Pursuant to the aforementioned policy permitting referrals, which administrative personnel, board members, employees, agents, volunteers or servants of our School District are

allowed to give referrals? Are School District administrative personnel, board members, employees, agents, volunteers or servants who are approved to provide these referrals required to have special training which makes them qualified to do so?

- 7) Before approving an agency or organization for referrals, what kind of background investigation does our School District conduct regarding this organization's malpractice history and their record of compliance with applicable state laws? Is there a verification that personnel at these agencies are not listed on sexual offender registries or do not have a criminal record of such nature that could jeopardize the safety of a student?
- 8) Has any representative of the Gay Lesbian and Straight Education Network (or any similar organization) ever been allowed to give a presentation to (or provide information to) students within our School District regarding or pertaining to matters involving sex education, sexual practices or sexual orientation?

In today's world, the political or moral motivations of those who come in contact with your children could vary drastically with your own beliefs. And sadly, a teacher or counselor can have a drastic influence on the future of your child by referring him or her to groups that advocate, among other things, the acceptance and experimentation of dangerous lifestyles. A district adopting a policy similar to the one below will take a step forward to protect the welfare of students and secure parental rights to direct the moral, physical and educational upbringing of their children. A district adopting such a policy will also begin to take the necessary steps to address significant exposure to potential liability.

Policy: Non-referral

The _____ School District recognizes its responsibility to provide for the security and safety of all students. _____ School District intends that its approved curriculum for students represents and provides the framework in which employees, instructors, volunteers, students and servants may discuss matters pertaining to sexuality, birth control, family planning, sexual health, sexual orientation and gender identity.

No employee, instructor, volunteer, student or servant of this district shall be permitted or authorized to refer or otherwise provide information to a student or other person(s) under their care or supervision regarding agencies, organizations, clubs or individuals outside of _____ School District not expressly approved by the _____ School District with respect to or pertaining to matters of sexuality, birth control, family planning services, sexual health, sexual orientation or gender identity

It is the policy of the _____ School District that all employees, instructors, volunteers, students and servants of the district be fully informed with respect to their obligations pursuant to state law to report evidence of underage sexual activity to the proper authorities for investigation. Pursuant to state law, each employee, instructor, volunteer or servant is to be trained and to understand the reporting protocols established by this district in compliance with the obligations of state law with respect to those persons designated as mandatory reporters of possible child sexual abuse. Symptoms of sexual activity by a minor and therefore, potential abuse of a minor may include, but are not limited to:

1. Seeking to obtain birth control information or paraphernalia
2. Seeking treatment for a sexually transmitted disease
3. Seeking abortion or referral for abortion services

In accordance with this policy the _____ School District shall appoint a person(s) singularly responsible to insure district wide compliance with all state mandatory reporting laws. This person(s) shall serve as a liaison with local law enforcement and child protection authorities permitting an immediate response to the potential of child sexual abuse. The person(s) so appointed shall develop a Student

Protection Program identifying and insuring against events exposing students to harm and the district to potential liability for that harm. The Student Protection Program shall address, examine and safeguard against instruction, activities or advice which:

- Encourages sexual activity by underage children or the promotion of sexual activity, either actively or passively, with adults.
- Encourages a failure to report, as required by state law, the reasonable suspicion of sexual abuse of an underage minor.
- Activities by a mandatory reporter which encourages an underage child to conceal sexual activity from authorities or other mandatory reporters or which coach a child in the manner and/or means to conceal such sexual activity or avoid an official investigation by state authorities.
- Encourages or assists an underage child in violating this district's or this state's statutes regarding parental involvement, the provision of advice, counsel or assistance to underage children to leave the jurisdiction of the courts encompassing our district or referral of an underage child to an individual, clinic, group or organization for the purposes of concealing sexual activity and/or introducing students to topics or subject matter already addressed by the district's comprehensive curriculum

Employees, instructors, volunteers, students and servants of the District violating this policy shall be subject to the provisions of the disciplinary procedures contained within the District Policy Manual up to, and including, immediate termination.

3. Character Education: Filling the Void

One of the most significant factors that have presented outside groups with their greatest opportunity to shape what children are taught has been the movement to drive God from public schools. This single event has created a 'moral vacuum' which groups like GLSEN seek to fill with their new 'morality' based on one-sided 'tolerance.' This 'new tolerance' demands the acceptance of all ideas and viewpoints without question and without consideration of whether the idea is contrary to truth, societal goals, or the moral beliefs of the overwhelming majority of Americans. To enforce this 'new tolerance' school districts have increasingly adopted speech codes which serve to limit any speech that reveals a 'heterosexual bias' that calls into question the homosexual lifestyle or which enshrines the heckler's veto by forbidding speech that insults or stigmatizes the individual.

School districts have found, however, that restrictive speech and codes of conduct policies invite costly litigation when students successfully defend their constitutionally guaranteed rights of conscience and free expression. True tolerance demands that everyone be treated with dignity, respect and civility. Tolerance of another's ideas or beliefs does not require acceptance of another's viewpoint nor does tolerance demand silence when another student asserts his opinion. School districts should avoid one-sided, unconstitutional attempts to secure the rights of a small number of activist students over another. Instead, schools should strive to teach our children the true meaning of character, building in them qualities like honesty, integrity, and respect for others.

Character education answers the demands by homosexual activists for respect and tolerance by advancing behaviors that we expect toward everyone. Character education provides a clear path for our children and young adults to mold from a diverse people a shared 'character culture' without being forced to compromise their moral or religious beliefs. Instead of silencing discussion or discriminating against beliefs, a civil society depends upon the public school system to instill those values that a pluralistic society most depends upon to function and succeed, particularly with regard for the individual while holding an opposite opinion or viewpoint.

The Ohio Secretary of State, Kenneth Blackwell, has developed a project worth mentioning. The Ohio Center for Civic Character offers a booklet for educators and employers entitled *Uncommonsense* which defines nearly two dozen common characteristics for “high character people.” Programs like *Uncommonsense* look to encourage compassion and respect for others while directing participants to seek the truth and strive for excellence.

4. Abstinence Education

It goes without saying, but abstinence education presents the only 100% certain method for the prevention of pregnancy and the transmission of sexually transmitted diseases. Aside from these benefits, abstinence education also represents a tool by which a school district may wrest control of matters regarding sexuality away from activists who wish to advance their own agendas.

Why abstinence education? It’s called “Viewpoint Discrimination” and “Subject Matter Pre-Emption.”

a. Viewpoint

A school is a unique type of public forum, different from a public street corner where an individual has practically an unrestricted right to speak on whatever issue he or she might wish. In instances where a student’s speech may appear as school sanctioned such as a strongly worded editorial regarding abortion in a school newspaper, courts have held that a school may prevent the student from speaking. Where student speech may, “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school,” a school may also prohibit student speech.

However, a school may not prohibit or censor a student’s viewpoint when the school has opened up discussion regarding a certain subject. For example, Pioneer High School in Ann Arbor, Michigan initiated a ‘Diversity Week’ during which the school decided to invite a panel discussion among clergy concerning homosexuality but insisted that only ‘gay accepting’ clergy compose the panel. Predictably, when a student wanted to invite her pastor to participate in order to present another viewpoint, the school district refused to permit the pastor to appear. Several years and one federal lawsuit later the judge ruled against the school in a strongly worded opinion noting:

This case presents the ironic, and unfortunate, paradox of a public high school celebrating ‘diversity’ by refusing to permit the presentation to students of an ‘unwelcomed’ viewpoint on the topic of homosexuality and religion, while actively promoting the competing view. This practice of ‘one-way diversity,’ unsettling in itself, was rendered still more troubling—both constitutionally and ethically by the fact that the approved viewpoint was, in one manifestation, presented to students as religious doctrine by six clerics (some in full garb) quoting from religious scripture. In its other manifestation, it resulted in the censorship by school administrators of a student’s speech about ‘what diversity means to me,’ removing that portion of the speech in which the student described the unapproved viewpoint.”

b. Curricular Control and Subject Matter Pre-emption

As previously noted, a school district may not act to limit a particular viewpoint when it has opened up a subject for dialogue. A school district is granted wide latitude when it decides to select a subject over which the district will exercise curricular control. So was the case in the recently decided Caudillo v. Lubbock Independent School District, 2004 US Dist Ct 3166 (2004). In Caudillo, the Lubbock Independent School District successfully refused to permit a group of students to form a GSA.

While the district persuaded the court that by preventing the formation of the GSA the district

was securing the well-being of its students and maintaining order and discipline, a critical element in the case was the adoption of a policy of abstinence only sex education as a part of the formal curriculum. The judge determined that the Lubbock Independent School District, by adopting a policy of abstinence only sex education, had intended to 'occupy' matters related to sexuality and preclude all other discussions of sexual activity, in whatever context, whether it be from a heterosexual or homosexual viewpoint.

Effectively, the Caudillo court found that the proposed GSA would admittedly violate the school's policy by engaging in discussion of sexuality and matters pertaining to sexual activity such as sexually transmitted diseases or AIDS. The judge determined that the GSA was, at its core, based upon sexual activity. Furthermore the judge ruled the orientation of the club, that is whether the material was homosexual or heterosexual in nature, was irrelevant. The school district had conscientiously decided to control the subject matter of sexuality and the group's planned agenda would interfere with the school's educational mission.

Abstinence programs permit a school district to impart accurate information regarding matters of sexuality in a non-controversial, responsible manner and additionally frustrate the aims of any club which makes as its goal the irresponsible dissemination of sexual material and encouragement to experiment with dangerous sexual practices. As well, schools should insure that as part of any club activity, students will not be involved in sexual issues, behavior, or adult-level sexual media or material.

There are many good abstinence programs available today suitable for use in both public and religiously affiliated schools. The Lubbock Independent School District reportedly uses the abstinence program *Why kNOw?*, which can be found at www.WhykNOw.org. As well, the Kentucky Health Cabinet offers grants to promote abstinence education and offers a program, *Postponing Sexual Involvement*, through local health districts. Information regarding abstinence programs approved by the Kentucky Health Cabinet can be found at <http://chs.ky.gov/publichealth/teenpregnancy.htm>.

5. Teaching of Controversial Subjects and/or the Use of Controversial Materials

It is almost unavoidable that some subject matter addressed in the public school setting will be considered "controversial." But in matters pertaining to sexuality and specifically homosexuality, the introduction of such subject matter to young children profoundly impacts the manner in which they view themselves and others. School districts seeking to introduce such themes should do so with caution, deliberation and the consent of parents.

A controversial issues policy should encourage parental involvement by facilitating a request for re-evaluation of materials. Normally this is accomplished by including in parent/student handbooks a form by which a parent can describe the material and the reason for concern. A controversial issues policy should also rely on a permanent committee constituted in such a manner as to require several parent members ensuring on-going parental scrutiny of proposed school curriculum. Such a policy should also require that all sides of a controversial topic be covered in order to present balance.

Policy: Controversial Material/Subject Matter

New material or presentations considered to create polarizing viewpoints may be considered controversial. Issues, for example, relating to sex, sexuality, birth control, abortion, homosexuality, sexual behavior, national defense, creationism and conflicts between science and religion should be considered 'controversial.'

Educators seeking to include or permit the presentation of controversial issues or material should submit the materials to the district Materials Review Committee. The Materials Review Committee shall be composed of a principal, school board president, one school board member and a parent representative from the elementary, middle and high school levels. The committee will review the materials or planned presentation and make its final recommendation permitting or prohibiting the materials or presentation to the district superintendent.

Individuals may challenge the presentation of controversial issues and the use of controversial subject matter by completing a Request for Re-evaluation of Material form and submitting the form to the Materials Review Committee.

Materials Review Committee and the Evaluation Procedure

New material or material considered 'controversial' should meet the following requirements:

1. The subject matter or issue is of definite educational value to the proposed audience
2. The proposed audience is at an age and/or educational level suited for the subject matter.
3. The presentation is the best and most appropriate treatment of the subject or issue permitting the exposition of opposing views on controversial issues.
4. The subject matter or presentation is consistent with the educational mission of the school district as expressed by existing policies and procedures.
5. Materials donated or given as gifts by individuals or organizations to the school district shall meet the above criteria and be accepted or rejected in accordance with the established criteria.
6. The material does not convey misleading information which could jeopardize a student's health.

Implementing the Plan-Where do you go from here?

There is no typical recommendation regarding which policy should be implemented first, just as much as there is no typical school district. There are many contending factors that will shape how concerned parents go about urging the adoption of new policies and changing their school environment. The make-up of the community and the school board as well as whether a GSA exists within the district are all important factors to consider.

It is generally thought that in a district without an existing GSA, the adoption of an abstinence only policy and a character education curriculum should be a priority. Again, with an abstinence only policy in place the school takes control of subject matter dealing with sexuality. A school that adopts a character curriculum, creates a framework in which all students are required to respect each other regardless of differences in religious or political belief or sexual orientation. Any allegations of 'harassment' by a special interest advocacy group can and should be dealt with as a general fault of character and not as a justification for sexual orientation or gender identity 'tolerance training'.

For a school district with an existing GSA, the immediate implementation of an abstinence based curriculum may be difficult. In such situations it may be best to begin to educate parents on the goals and activities of the GSA. A parents group may consider implementing a notification and consent policy for extracurricular activities which will increase parental awareness of the goals and activities of a GSA. A non-referral policy regarding outside agencies or groups will serve to protect children and instruct other parents and administrators regarding liability issues. The adoption of a controversial issues policy serves to restore some measure of control of the curriculum to parents.

Conclusion

In the culture war that has enveloped this country, our public school system has become a hotly contested battleground. Without question those proponents of the homosexual agenda seek to gain an advantage by eliminating the possibility of an unbiased education, thereby preventing school children from making critical and informed decisions regarding sexuality, morality and the societal good. If our children are entangled in the deceptive lies of 'tolerance' without discernment, it is not only that *they* are trapped, but future generations of children who are subsequently brought into this world. As parents and as taxpayers, we have the right and the obligation to ensure that our public school system offers the children of today the proper knowledge base and skills to make the decisions for tomorrow.